

**TOPIC: Spanish Lake Mitigation Bank**

**DATE: 09 April 2015**

**CONTACTS: Raul Gutierrez (504-862-2371)**

**PURPOSE/ACTION NEEDED: Record of Communication/Meeting**

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**ATTENDANCE:**

Tim Hardy, Kent Parsons, Andre Bourgeois, Stephen Wallace, Scott Nesbit (Spanish Lake)  
Raul Gutierrez, Maria Martinez, Jane Watson (EPA Region 6)  
Brian Breaux (USACE New Orleans District – only present during afternoon meeting)

**ISSUES:**

Credit Determination/Valuation

Values for two of the units (I & II) have been rated as N/A under the interim Credit Assessment Method (iCAM), which is the interim method the New Orleans District is using until a permanent credit assessment method is available. It was explained that these two units consist solely of preservation, and the Corps did not have any previously accepted ratios for preservation. Therefore, the two units were rated Not Applicable, as the iCAM could not be used to calculate the necessary compensatory mitigation under this method.

Two remedies were proposed. The first would be an internal note/email within the New Orleans District Regulatory Branch from the Special Projects Team to the Project Managers in the Central Evaluation Section. This message would explain that Units I & II could be used for compensatory mitigation on a case-by-case basis. The second entails a proposal by the sponsor of Spanish Lake Mitigation Bank suggesting ways that these areas could be enhanced, thereby moving the two units from preservation into enhancement.

Jurisdictional Determination

There is current disagreement between the New Orleans District and the sponsors of Spanish Lake Mitigation Bank regarding the Clean Water Act (CWA) Section 404 and Rivers and Harbors Act Section 10 status of the bank. This has been appealed to the Mississippi Valley Division who will be making the final determination.

Existing Permits

There has been considerable concern over the granting of CWA Section 404 permits for oil and gas activities on areas of the bank. These include access roads and other appurtenances. Many of these are older issues or issues whose resolution depend on the final outcome of the jurisdictional determination. Therefore, they were tabled in order to focus the meeting with the Corps on a few issues which could be resolved.

## Conservation Servitude

The sponsors of Spanish Lake Mitigation Bank still continue to question the terminology in the Conservation Servitude regarding surface versus subsurface mineral rights. The cases are currently in civil litigation between Spanish Lake Mitigation Bank and the oil and gas companies.



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